IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

DataTreasury Corporation	§	
	§	
Plaintiff	§	
v.	§	
	§	Civil Action No. 2:06-CV-72 DF
Wells Fargo & Company, et al.	§	
	§	
Defendants	§	
	§	

DEFENDANTS CULLEN/FROST BANKERS, INC. AND THE FROST NATIONAL BANK'S NOTICE OF ACCEPTANCE OF STIPULATION REQUIRED FOR STAY

The Court, having considered the parties' briefing and oral argument, ordered (Docket No. 411) that this case be stayed in its entirety as to U.S. Patent No. 5,910,988 and U.S. Patent No. 6,032,137 in light of developments in the *ex parte* reexamination initiated by First Data Corporation (hereinafter "petitioner") of the patents in suit. As a required condition of the Court's stay, the Defendants Cullen/Frost Bankers, Inc. and The Frost National Bank (collectively "Frost"), hereby notify the Court that they accept the following stipulation and the concomitant stay of all proceedings:

> As a condition of the stay, Defendant may not argue invalidity at trial based on one or more prior art printed publications that were submitted by the petitioner in the reexamination proceedings. However, Defendant will be permitted to rely for obviousness on the combination of a printed publication reference that was submitted by petitioner in the reexamination with prior art that was not so submitted.

Dockets.Justia.com

Frost further notes that it will work with Plaintiff in this matter to keep the Court apprised of developments in the reexamination which may impact the ordered stay.

Dated: January 23, 2007

Respectfully submitted,

By: __/s/ Kurt M. Sauer_______
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5 (a)(3)(A) on January 23, 2007.

/s/ Kurt M. Sauer____________